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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

Attorney for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SENNETT DEVERMONT,  
Plaintiffs,

v.

CITY OF SANTA MONICA, CHIEF  
TIM JACKMAN, OFFICER KOBAYASHI  
ARNOLD ID#3347, and DOES 1-10,  
inclusive,

Defendants.

No.

**CV 12-6772**

-DDP  
(me)x

**COMPLAINT FOR DAMAGES**

1. Violation of Civil Rights  
(42 U.S.C. §1983)
2. *Monell Claim*  
(42 U.S.C. §1983)

**DEMAND FOR JURY TRIAL**

**JURISDICTION**

Jurisdiction of this court is invoked under 28 U.S.C. §§ 1343, (1), (2), (3) and (4). This action at law for money damages arises under Title 42 U.S.C. Section 1983 and the United States Constitution, the laws of the State of California and common law principles to redress a deprivation under color of state law of rights, privileges and immunities secured to Plaintiffs by said statutes, and by the First, Fourth, Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. At all times herein mentioned, Plaintiff SENNETT DEVERMONT was a resident of the County of San Diego, California.

2. At all times herein mentioned, Defendants Officer Koby Arnold ID#3347, individually and as a peace officer and Does 1-10 were and are employees of the City of Santa Monica and the Santa Monica Police Department.

3. Defendant City of Santa Monica, (hereinafter referred to as "City") is and at all times herein mentioned has been a public entity and an incorporated county duly authorized and existing as such in and under the laws of the State of California; and at all times herein mentioned, Defendant City has possessed the power and authority to adopt policies and prescribe rules, regulations and practices affecting the operation of the Santa Monica Police Department, and particularly said Department's Patrol, Internal Investigations and Training and Personnel Divisions and other operations and subdivisions presently unidentified to Plaintiff, and their tactics, methods, practices, customs and usages.

4. Defendant Chief Tim Jackman was the Chief of Police at the time of Plaintiff's arrest, and an agent of Defendant City of Santa Monica. Plaintiff is informed and believes and based upon that alleges that Defendant Jackman was responsible for implementing, maintaining, sanctioning, or condoning policies, practices, and customs, under which the other Defendants committed illegal or wrongful acts that are complained of in this lawsuit. By reason of these policies, practices, and customs, Defendant Jackman is liable for the damages that resulted.

5. Plaintiffs are informed and believe and thereon allege that each of the Defendants designated as a DOE is intentionally responsible in some manner for the events and happenings herein referred to, and thereby proximately caused injuries and damages as herein alleged. The true names and capacities of Does 1 through 10, inclusive, and each of them, are not now known to Plaintiff who therefore sues said Defendants by such fictitious names and will be added to this

1 action as provided by California Code of Civil Procedure Section 484.

2 6. Defendants, and each of them, did the acts and omissions hereinafter  
3 alleged in bad faith and with knowledge that their conduct violated well  
4 established and settled law.

5 7. The incident complained of began in the City of Santa Monica on  
6 December 23, 2011 when Defendant Arnold pulled Plaintiff over at the  
7 intersection of Bundy Drive and Santa Monica Boulevard for allegedly turning  
8 right on a street marked "No Right on Red."

9 8. Defendant Arnold approached Plaintiff and upon contact as Plaintiff  
10 was still seated in his car began performing a "horizontal gaze nystagmus" test on  
11 him. Plaintiff told Defendant Arnold he did not have to complete these test.  
12 Defendant Arnold said he was required to complete the test. Plaintiff continued to  
13 decline to take the test.

14 9. Defendant Arnold ordered Plaintiff out of his car, handcuffed him,  
15 and told him he was being arrested for refusing to take the field coordination tests  
16 and refusing the answer the officer's questions. The handcuffs were not double  
17 cuffed, causing cuts and bruises. Defendant Arnold refused Plaintiff's request to  
18 loosen the handcuffs.

19 10. Plaintiff requested that Defendant Arnold leave his car parked so that  
20 he could call a family member to retrieve it and his two dogs who were sitting  
21 inside. Defendant Arnold declined, handcuffed Plaintiff, had his car towed, and  
22 had animal control come and seize Plaintiff's two dogs.

23 11. Defendant Arnold had Plaintiff taken to the Santa Monica Emergency  
24 Hospital where he ordered that Plaintiff's blood be seized for evidence. Plaintiff  
25 was then taken to the Santa Monica City Jail, where he was booked into jail.

26 12. Plaintiff contacted a lawyer who arrived at the Santa Monica City Jail  
27 to consult with him. Officers at the jail declined to allow Plaintiff to speak to or  
28 meet with his lawyer.

13. Plaintiff was released at 7 a.m. Christmas Eve morning. He was charged with a violation of Vehicle Code §23152 ("DUI"). When Plaintiff's blood tested, it registered a .00 blood alcohol level. The City Attorney declined to press charges against Plaintiff.

14. Upon being informed of Plaintiff's accusations against Defendant Arnold, an administrative investigation was commenced. Said failure to carry out the complaint investigation violated Santa Monica Police Department official regulations and California Penal Code section 832.5 and was not conducted so to exonerate Defendant Arnold and DOES 1-10 from all wrongdoing notwithstanding the fact that Arnold and DOES 1-10 had violated the law, department policy and the plaintiffs constitutional rights.

#### **FIRST CAUSE OF ACTION**

#### **(42 U.S.C. § 1983 VIOLATION OF CIVIL RIGHTS - EXCESSIVE FORCE, FALSE ARREST, RETALIATION FOR EXERCISING FIRST AMENDMENT RIGHTS, VIOLATION OF SIXTH AMENDMENT RIGHT TO COUNSEL)**

#### **(By Plaintiff Against All Individual Defendants)**

15. Plaintiff refers to and repleads each and every allegation contained in paragraphs 1 through 14 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

16. This action at law for money damages arises under Title 42 U.S.C. § 1983 and the United States Constitution, the laws of the State of California and common law principles to redress a deprivation under color of state law of rights, privileges and immunities secured to Plaintiffs by said statutes, and by the First, Fourth, and Fourteenth Amendments of the United States Constitution.

17. Commencing at or about the aforementioned dates and places, without cause or justification, and acting under color of law, Defendant Arnold, and Does 1-10, and each of them, intentionally and maliciously deprived Plaintiff

1 of rights secured to him by the First, Fourth, Fifth, Sixth, and Fourteenth  
 2 Amendments to the United States Constitution. Defendants subjected plaintiff to  
 3 excessive and unreasonable force and to an unlawful arrest and booking, falsified  
 4 reports to justify the unlawful uses of force, illegal detentions and arrest of the  
 5 plaintiff and thereby deprive plaintiff of rights secured to him by the federal  
 6 constitution.

7 18. Defendants, and each of them, carried out and perpetrated the  
 8 mutually supportive conspiracy to deprive Plaintiff of his rights against retaliation  
 9 for exercising his First Amendment rights, unreasonable searches and seizures,  
 10 due process, by participating in a corrupt effort to conceal the violation of  
 11 Plaintiff's rights with manufactured facts supported by defendants.

12 19. As a proximate result of the aforesaid acts and omissions of  
 13 Defendants, and each of them, Plaintiff sustained physical and mental pain and  
 14 shock to his nervous systems, fear, anxiety, torment, fines, degradation and  
 15 emotional distress.

16 20. The aforementioned acts and omissions of Defendants were  
 17 committed by each of them knowingly, wilfully and maliciously, with the intent to  
 18 harm, injure, vex, harass and oppress Plaintiff with a conscious disregard of  
 19 Plaintiff's constitutional rights and by reason thereof, Plaintiff seeks punitive and  
 20 exemplary damages from Defendants, and each of them, (except Defendant CITY)  
 21 in an amount as proved.

## 22 **SECOND CAUSE OF ACTION**

### 23 **(UNLAWFUL CUSTOM AND PRACTICE UNDER SECTION 1983)**

#### 24 **(By Plaintiff Against Defendant City and Chief Jackman)**

25 21. Plaintiff refers to and repleads each and every allegation contained in  
 26 paragraphs 1 through 20 of this complaint, and by this reference incorporates the  
 27 same herein and makes each a part hereof.

28 22. Defendant City is and at all times herein mentioned has been a

1 public entity and an incorporated municipality duly authorized and existing as  
2 such in and under the laws of the State of California; and at all times herein  
3 mentioned, Defendant City is possessed of the power and authority to adopt  
4 policies and prescribe rules, regulations and practices affecting the operation of  
5 the San Diego Police Department and its tactics, methods, practices, customs and  
6 usages related to internal investigations, personnel supervision and records  
7 maintenance, and the proper uses of force by its rank and file, generally.

8       23. At all times herein mentioned, Defendants Arnold and Does 1-10, and  
9 each of them, were employees of the City of Santa Monica and Santa Monica  
10 Police Department acting under the City's and Chief Jackman's direction and  
11 control, knowingly and intentionally promulgated, maintained, applied, enforced  
12 and suffered the continuation of policies, customs, practices and usages in  
13 violation of the First, Fourth, Fifth, Sixth and Fourteenth Amendments  
14 respectively to the United States Constitution, which customs, policies, practices  
15 and usages at all times herein mentioned encouraged (1) the employment,  
16 deployment and retention of persons as peace officers who have a propensity for  
17 brutality, dishonesty, bigotry, and numerous other serious abuses of their duties as  
18 peace officers in the employment of the city.

19       24. Defendant City knowingly maintains and permits official *sub-rosa*  
20 policies or customs of permitting the occurrence of the kinds of wrongs set forth  
21 above, by deliberate indifference to widespread police abuses, failing and refusing  
22 to fairly and impartially investigate, discipline or prosecute peace officers who  
23 commit acts of felonious dishonesty and crimes of violence, each ratified and  
24 approved by the City.

25       25. The unconstitutional policies, practices or customs promulgated,  
26 sanctioned or tolerated by defendant City include, but are not limited to:

27               (1) Defendant City had knowledge, prior to and since this  
28 incident, of repeated allegations of abuse and assaultive misconduct

1 toward detainees and arrestees; Specifically, City knew Defendant  
2 Arnold and other officers had committed numerous violations of the  
3 law under color of law and demonstrated Arnold's unfitness for  
4 employment as a peace officer but refused to protect public safety and  
5 that of the Plaintiff by failing to discharge and prosecute Arnold and  
6 Does 1-10. City knew Santa Monica PD officers including Arnold,  
7 and Does 1-10 and others had in the past and since Plaintiff's  
8 incident, committed similar acts of official dishonesty, corruption and  
9 abuse of persons similarly situated to the plaintiffs;

10 (2) Defendant City had knowledge, prior to and since this  
11 incident, of similar allegations of abuse and dishonesty by  
12 Defendants, and refused to enforce established administrative  
13 procedures to insure the safety of detainees and arrestees;

14 (3) Defendant City refused to adequately discipline individual  
15 officers and employees found to have committed similar acts of abuse and  
16 misconduct;

17 (4) Defendant City refused to competently and impartially  
18 investigate allegations of abuse and misconduct alleged to have been  
19 committed by Santa Monica Police Department officers;

20 (5) Defendant City reprimanded, threatened, intimidated,  
21 demoted and fired officers who reported acts of abuse by other  
22 officers;

23 (6) Defendant City covered up acts of misconduct and abuse  
24 by Santa Monica Police Department officers and sanctioned a code of  
25 silence by and among officers;

26 (7) Defendant City knew of and sanctioned the custom and  
27 practice of falsely arresting, booking and charging victims of officer  
28 physical abuse with violations of California Penal Code Sections 69,

1 243, 245, 148., 415, 647(f), and Vehicle Code section 23152.

2 (8) Defendant City failed to adequately train and educate  
3 officers in the use of reasonable and proper force and failed to  
4 enforce the department's written regulations with respect to uses of  
5 force;

6 (9) Defendant City failed to adequately supervise the actions  
7 of officers under their control and guidance;

8 (10) Defendant City condoned and participated in the practice  
9 of prosecuting groundless criminal charges for the purpose of  
10 insulating the City of Santa Monica and its officers from civil liability  
11 and reducing or dismissing criminal charges against individuals in  
12 return for releasing them from civil liability;

13 (11) Defendant City condones and encourages a conspiracy of  
14 silence among its employees for the purpose of concealing and furthering  
15 wrongful and illegal conduct by its employees;

16 (12) Defendant City engages in the custom and practice of  
17 refusing to provide public prosecutors and criminal defendants  
18 exculpatory and impeaching evidence as required by law.

19 (13) Defendant City fostered and encouraged an atmosphere of  
20 lawlessness, abuse and misconduct, which by July 1, 2011 and thereafter,  
21 represented the unconstitutional policies, practices and customs of the City  
22 and San Diego Police Department.

23 (14) Defendant City encouraged officers during DUI stops to  
24 threatened citizens with arrest if the citizens insisted on enforcing their  
25 rights not to speak with officers or perform field coordination tests.

26 (15) Defendant City took no action against Defendant Arnold for  
27 the assault, battery and false imprisonment of Paul Burke that caused city to  
28 pay the victim \$99,000 after the victim filed a federal civil rights case, Case

1 Number 09CV2259.

2 26. By reason of the aforesaid policies, customs, practices and usages,  
3 plaintiffs First, Fourth, and Fourteenth Amendments to the United States  
4 Constitution were violated.

5 **PRAYER**

6 WHEREFORE, Plaintiffs pray judgment against Defendants and  
7 each of them, as follows:

8 **AS TO EACH CAUSE OF ACTION AS APPLICABLE**

- 9 1. For General damages according to proof;
- 10 2. For Special damages according to proof;
- 11 3. For Punitive damages as provided by law, in an amount to be proved  
12 against each individual Defendant;
- 13 4. For attorney's fees pursuant to 42 U.S.C § 1988 and California Civil  
14 Code §§52, and 52.1;
- 15 5. For Costs of suit;
- 16 6. For such other and further relief as the Court may deem proper.

17 DATED: July 20, 2012

**MARY F. PREVOST**

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21 By: Mary Frances Prevost  
Attorneys for Plaintiff  
22 SENNETT DEVERMONT  
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PLAINTIFFS JURY DEMAND

Plaintiffs hereby demands a trial by jury.

DATED: July 20, 2012

MARY F. PREVOST

By: Mary Frances Prevost  
Attorney for Plaintiffs  
SENNETT DEVERMONT